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**UNITED STATES BANKRUPTCY COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

**In re:**  
**PG&E CORPORATION,**  
**- and -**  
**PACIFIC GAS AND ELECTRIC**  
**COMPANY,**  
**Debtors.**

- ☐ Affects PG&E Corporation
- ☐ Affects Pacific Gas and Electric Company
- ☒ Affects both Debtors

*\* All papers shall be filed in the Lead Case,  
No. 19-30088 (DM).*

Bankruptcy Case No. 19-30088 (DM)

Chapter 11 (Lead Case)  
(Jointly Administered)

**SUPPLEMENTAL BRIEF AND  
RESERVATION OF RIGHTS OF  
OFFICIAL COMMITTEE OF TORT  
CLAIMANTS' TO SECURITIES LEAD  
PLAINTIFF'S MOTION TO APPLY  
BANKRUPTCY RULE 7023 TO CLASS  
PROOF OF CLAIM (Dkt. No. 5042)**

Date: TBD  
Time: TBD  
Before: Hon. Dennis Montali  
United States Bankruptcy Court  
Courtroom 17, 16<sup>th</sup> Fl.  
450 Golden Gate Ave.  
San Francisco, CA 94102

1 The Official Tort Claimants' Committee ("TCC") hereby files this supplemental brief and  
2 reservation of rights in opposition to the motion [Dkt. 5042] (the "Motion") filed by the purported  
3 Securities Lead Plaintiffs ("Movants") to apply Bankruptcy Rule 7023 to a class proof of claim  
4 asserted on behalf of a class of shareholders (the "Putative Class") of PG&E Corporation and  
5 Pacific Gas & Electric Company (collectively, the "Debtors"), and further to this Court's Tentative  
6 Ruling Regarding Motion to Apply Rule 7023 and Order Setting Deadline [Dkt. No. 5604] entered  
7 February 3, 2020.

8 I.

9 **ARGUMENT**

10 **A. The Motion Should Be Denied Outright, or Alternatively, the Court May Extend the**  
11 **Bar Date for Securities Holders**

12 The TCC contends that the Motion should be denied outright, or alternatively, addressed  
13 with an extended bar date for shareholders.

14 A bankruptcy court's decision to deny a Rule 7023 motion, and also deny an alternative  
15 request to extend the bar date, falls within the court's discretion. *Reid v. White Motor Corp.*, 886  
16 F.2d 1462, 1472, fn. 14 (6th Cir. 1989) (bankruptcy court did not "abuse its discretion by not  
17 extending the bar date to allow the supposed class members to file individual proofs of claim.").

18 While this Court expressed a concern at the 1/29/20 hearing about the possible former  
19 shareholder who might be "sailing his own boat [and] doesn't have internet access" (p. 55, lines  
20 19-20), such a concern should not drive an outcome that will unfairly advantage those who have  
21 sat on their rights. Investors in public utilities are likely to pay attention to markets, to the filings  
22 of bankruptcy by large corporations, and particularly to the ups-and-downs of companies in which  
23 they once held stock. It is inconceivable that the majority of former shareholders of PG&E who  
24 would fall within the putative class, but did not file a proof of claim, were unaware of the filing of  
25 the Debtors' chapter 11 case. The fact that they did not file individual proofs of claim is not a  
26 failing of the system, but a demonstration that they recognize that their stock loss was a product of  
27 the North Bay Fires (and hence, a derivative claim), not of actionable misrepresentations. There is  
28 no need for an extended bar date for former shareholders.

1           However, if this Court concludes that some measure of relief is required, the TCC contends  
2           that an extended bar date for former shareholders along with denial of the 7023 Motion is the most  
3           relief that would be proper. *See Schuman v. Connaught Group, Ltd. (In re Connaught Group, Ltd.)*,  
4           491 B.R. 88, 97 (Bankr. S.D.N.Y. 2013) (“If the representative files a *timely* adversary proceeding  
5           or class proof of claim, and the Court denies a motion to certify the class, it should set a reasonable  
6           bar date to allow the members of the putative class to file individual claims.”) (emphasis added).

7           If this Court believes that some measure of relief is required to address the Motion, the TCC  
8           requests that this Court limit such relief to a brief extension of the bar date for former equityholders.

9       **B.     A Securities Class Claim Would Weaken the Value of the TCC’s Consideration**  
10       **Obtained under its RSA with the Debtors**

11           On December 7, 2019, the TCC, the Debtors, Consenting Fire Claimant Professionals, and  
12           the Shareholder Plan Proponents, entered into a Restructuring Support Agreement (the “RSA”)   
13           following extensive mediation and settlement discussions. It is often said that the TCC agreed to  
14           support the Debtors’ plan in return for \$13.5 billion in cash and stock (to be liquidated for cash) for  
15           fire victims, but this common statement omits a substantial part of the consideration that the TCC  
16           bargained to receive for fire victims: assigned claims and causes of action against the Debtors’  
17           former directors and officers, and the Debtors’ vendors, contractors, and consultants. The TCC  
18           bargained for these assigned claims on the understanding that they will contribute substantial  
19           additional funds for fire victims.

20           When that settlement was discussed, it was beyond the claims bar date, and only a few  
21           *individual* proofs of claim had been filed by securities plaintiffs. The Rule 7023 Motion had not  
22           been filed, and there was no indication that any effort would be made to assert a late-filed \$2 billion  
23           class claim.

24           The TCC’s settlement is now facing criticism from some creditors who object to  
25           competition with government claims, to preferential treatment for their insurance companies, and  
26           to a perception that the settlement amount will be insufficient to address all claims. Movants seek  
27           to add the new burden of a \$2 billion class claim that could affect available insurance policies,  
28           weaken the value of the Debtors’ stock, and harm the Debtors’ existing plan financing. The impact

1 that a late class claim would have on these cases will cause substantial prejudice to Fire Victims,  
2 who negotiated their RSA without timely notice that such a class claim would be pursued. The  
3 impact caused by a brief extension of the bar date for former shareholders would be far less.

4 Counsel to Movants explained to this Court at the hearing on 1/29/20 that any claim asserted  
5 by their Putative Class would be subordinated under 11 U.S.C. § 510(b), and that they would only  
6 seek to share in the equity put aside under the Debtors' Plan for current equityholders. While this  
7 suggests that leave to file a class claim would not impact fire victims, the TCC concurs with the  
8 arguments raised by the Debtors in their supplemental brief to be filed concurrently herewith, and  
9 contends that the relief requested in the Motion would impact the plan process to the detriment of  
10 all fire victims, and the potential value of the stock to be transferred to the Trust.

11 **C. Reservation of Rights**

12 If this Court grants the Motion, or extends the bar date for former equityholders, the TCC,  
13 on its own behalf and on behalf of the future Fire Victim Trust, reserves all arguments pertaining  
14 to allowance of such claims, including but not limited to the fact that the damages asserted by such  
15 claims are incidental to the damages caused to the Debtors by the 2017 North Bay Fires, and  
16 therefore are derivative claims owned by the Debtors that are assigned to the Fire Victim Trust.

17 **II.**

18 **CONCLUSION**

19 For all of the reasons argued herein, the TCC respectfully requests that this Court deny the  
20 Motion outright, or alternatively, extend the bar date for former equityholders.

21  
22 Dated: January 14, 2020

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24 By: /s/ David J. Richardson

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